

12.03.2021.
144.
as
(Partly
Allowed).

C.R.M. 11056 of 2020

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with Sankrail P.S. Case No.1133 of 2020 dated 27.11.2020 under Sections 341/323/325/326/354B/379/506/34 of the Indian Penal Code.

In the matter of : Shankar Mallik & Ors.

... Petitioners.

Mr. Sanjib Mitra.

...for the Petitioners.

Mr. Siladitya Banerjee.

.....for the State.

Apprehending arrest in connection with Sankrail P.S. Case No.1133 of 2020 dated 27.11.2020 under Sections 341/323/325/326/354B/379/506/34 of the Indian Penal Code, the petitioners have filed the instant application for anticipatory bail.

The learned Advocate appearing for the petitioner submits that there was a civil dispute between the petitioners and the complainant being the neighbours over the common passage and having unsuccessful to achieve the sinister motive, the first information report was lodged after a considerable delay without any explanation. It is further submitted that the petitioners have not committed any offence and it is out of the vengeance, the aforesaid case has been

lodged and, therefore, the petitioners should get a privilege of pre-arrest bail.

On the other hand, the learned Advocate appearing for the State opposes the prayer for bail and submits that the victim has suffered grievous injury and, therefore, the custodial interrogation of the petitioners is necessary. He relies upon the statement of the victim under Section 161 of the Code of Criminal Procedure as well as the medical report annexed to the Case Diary.

After perusal the materials available from the record as well as the statement advanced by the respective parties, we find that the name of the petitioner no.2, Dilip Malik having disclosed by the injured at the time of the treatment though there appears some involvement of the petitioners along with the petitioner no.2 in the statement recorded under Section 161 of the Code of Criminal Procedure.

Considering the nature of the injury and the therapeutic treatment extended to them and the disclosure so made, we feel that the petitioner no.2 is not entitled to privilege of pre-arrest and, therefore, the prayer for anticipatory bail so far as the petitioner no.2 is concerned, is hereby rejected.

The application for anticipatory bail so far as the petitioner Nos.1, 3 and 4 is concerned are allowed.

Accordingly, we direct that in the event of arrest the petitioner Nos.1, 3 and 4 shall be released on bail upon furnishing a bond of Rs.10,000/- each, with two sureties of like

amount each, one must be local subject to the satisfaction of the arresting officer with further condition that the petitioner Nos.1, 3 and 4 shall meet the Investigating Officer once in a week and shall co-operate with the investigation until further order. Apart from the aforesaid conditions, the further conditions enshrined under Section 438(2) of the Code of Criminal Procedure, 1973 shall also apply.

This application for anticipatory bail is, thus, allowed.

(Harish Tandon, J.)

(Kausik Chanda,J.)